

PATENT DOCKET 17516-2130us

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Niemeyer, Gunter D.

Application No. : 10/644,406

Filed: 8/19/2003

For: Camera Referenced Control in a Minimally Invasive Surgical Apparatus

## TERMINAL DISCLAIMER

The owner, Intuitive Surgical INC. of 100% interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,424,855. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the fully statutory term as defined in 35 U.S.C. 145 to 156 and 173 of any patent granted on said reference application, "as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to grant of any patent on the pending reference application," in the event that any such patent granted on the pending reference application :

expires for failure to a maintenance fee

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is found invalid by a court of competent jurisdiction

is statutorily disclaimed in whole or terminally disclaimed under 37CFR 1.321,

has all claims canceled by a reexamination certificate,

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such will false statement may jeopardize the validity of the application of any patent issued thereon.

As a Senior Vice President of Intuitive Surgical INC. the undersigned is empowered to act on behalf of the business/organization.



Susan K. Barnes  
Senior Vice President and  
Chief Financial Officer  
Intuitive Surgical, Inc

5/23/05  
Date